

## **2009 DRAFTING REQUEST**

### **Bill**

Received: **01/21/2009**

Received By: **rkite**

Wanted: **As time permits**

Identical to LRB:

For: **Administration-Budget**

By/Representing: **Miner**

This file may be shown to any legislator: **NO**

Drafter: **rkite**

May Contact:

Addl. Drafters:

Subject: **Environment - recycling**

Extra Copies:

Submit via email: **NO**

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### **Pre Topic:**

DOA:.....Miner, BB0502 -

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### **Topic:**

Effective recycling program variance

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### **Instructions:**

See attached

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### **Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?							S&L
/1	rkite 01/22/2009	nnatzke 01/22/2009	mduchek 01/22/2009		cduerst 01/22/2009		S&L
/2	rkite 01/23/2009	nnatzke 01/23/2009	phenry 01/24/2009		chanaman 01/25/2009		

FE Sent For:

<END>

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/1	rkite 01/22/2009	nnatzke 01/22/2009 1/2 <sup>nwn</sup> 1/23	mduchek 01/22/2009 by ph	<u>1</u> by <del>10</del> <b>&lt;END&gt;</b>	cduerst 01/22/2009		

FE Sent For: SM/CH

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/?	rkite	1 <sup>nwn</sup> 1/22	NO	NO NN			

FE Sent For:

**<END>**

## Tradewell, Becky

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**From:** Miner, Andrew - DOA [Andrew.Miner@Wisconsin.gov]  
**Sent:** Wednesday, January 21, 2009 1:17 PM  
**To:** Tradewell, Becky  
**Cc:** Steinmetz, Jana D - DOA  
**Subject:** new request from Milwaukee, re: recycling  
**Attachments:** MKE recycling language request.pdf

Becky,

I apologize for the lateness, but I was handed a new request from the City of Milwaukee with instructions to get it drafted for the budget. Please see the attached pdf. There is a brief description, the current statutes, and then the requested addition (add 287.11 (2c) ) is on the second page. Please draft in accordance with the request as possible – you can ignore the last part of the third paragraph of the request which talks about duplexes – their suggested language doesn't mention this so we will leave it be. Also, don't worry about the NR 151 item that starts after that – that will be handled outside the budget.

I'll be sending over a separate, formal request for this. Please let me know if you have any questions. Thanks,  
Andrew

*Andrew Miner  
Agriculture, Environment and Justice  
Wisconsin State Budget Office  
(608) 266-1103*

## 2009-11 Budget Bill Statutory Language Drafting Request

- Topic: ~~Vehicle Environmental Impact Fee Sunset Deletion~~ *Effective recycling program variance*
- Tracking Code: *BB0502*
- SBO team: Agriculture, Environment and Justice
- SBO analyst: Andrew Miner *AM 1/21/09*
  - Phone: 266-1103
  - Email: andrew.miner@wisconsin.gov
- Agency acronym: DNR
- Agency number: 370
- Priority (Low, Medium, High): High

Intent: Add statutory language which clarifies that monthly recycling collection from at least 80 percent of residential units shall qualify as an effective recycling program. See attached request from the City of Milwaukee for information and suggested language.

## City of Milwaukee: Requested Changes to State Mandates

### Requested Change to 287.11 (Recycling)

*Draft*  
The City of Milwaukee operates an effective recycling program consistent with statutory requirements under s 287.11. Annual costs are \$11.6 million, with approximately \$3.9 million reimbursed by the State. The City recycles approximately 25,500 tons of curbside recyclables annually and diverts over 50,000 tons of total material from landfills annually.

Unfortunately, there are a relatively small proportion of residential units in the City with very low recycling rates. Specifically, 4 of the City's 33 recycling routes are "bin" routes that generate a relatively very small amount of recyclables but cost the City more than \$340,000 annually to serve. The average household on a bin route collects 80% less tonnage than the average household citywide (The average household on a bin route only recycles 4 pounds per month.)

Most of the housing units within these 4 routes are multi-unit residential properties, typically duplexes. The City has interpreted the statutes and the related administrative rules as requiring monthly curbside collection from these residential units. The City is requesting some clarification through statutes that monthly collection from at least 80% of residential units shall qualify as an effective recycling program, and/or that the requirement under 2 (e) does not apply to duplexes.

*See the applicable statutes below with a suggested change*

**(2) EFFECTIVE PROGRAM CRITERIA FOR RESPONSIBLE UNITS.** A responsible unit's solid waste management program is an effective recycling program if it includes all of the following:

- (a) A public education component to inform residents of the region of the reasons to recycle, local opportunities to recycle and the prohibitions in s. 287.07 (3) and (4).
- (b) A requirement that the occupants of single-family residences, buildings containing 2 or more dwelling units and commercial, retail, industrial and governmental facilities in the region separate the materials identified in s. 287.07 (3) and (4) from postconsumer waste generated in the region.
- (c) A requirement that owners of buildings containing 5 or more dwelling units in the region do all of the following:
  - 1. Provide adequate, separate containers for the program established under par. (b).
  - 2. Notify tenants at the time of renting or leasing the dwelling and semiannually thereafter of the programs under this paragraph and par. (b).

3. Provide for the collection of recyclable materials separated from solid waste by the tenants and the delivery of the recyclable materials to a recycling facility.

(d) A requirement that owners of commercial, retail, industrial and governmental facilities in the region do all of the following:

1. Provide adequate, separate containers for the program established under par. (b).
2. Regularly notify all users and occupants of the facilities of the programs under this paragraph and par. (b).
3. Provide for the collection of recyclable materials separated from solid waste by the users and occupants and the delivery of the recyclable materials to a recycling facility.

(e) A system for collecting from single-family residences in the region any materials separated pursuant to par. (b).

***Add 287.11 (2 c) to read:***

The department shall, at the request of a responsible unit that has been determined to have an effective recycling program under this section, grant a variance to the applicable requirements in sub. (2) (b) and (e) to allow for curbside collection of at least once a month from at least 80% of such residences to fulfill the requirements for an effective recycling program.

**NR 151 (Storm Water Runoff Standards)**

1. A series of administrative rules, including NR 151, to control polluted runoff from agricultural, non-agricultural and transportation sources went into effect October 1, 2002. After NR 151 was passed and publicly commented on, the DNR realized that the rule as written would not meet their water quality goals because some of the water quality improvement activities were not as effective as previously thought. Specifically, whereas street sweeping was once one of the activities to count toward a reduction in a city's Total Suspended Solids (TSS), the final version of the rule did not reflect the spirit of the Code. The municipal permits for releasing storm water require the cities to use the SLAMM model to determine reductions in TSS, which gives far less credit to street sweeping than originally planned and no credit for permitted activities such as public education on stormwater quality. This change has made meeting the DNR's standards on its timeline drastically more expensive for municipalities across the state.

Additionally, without corresponding and effective regulation of the agriculture sector, this rule will be extremely costly for cities with very little tangible improvement to water quality.



State of Wisconsin  
2009 - 2010 LEGISLATURE

LRB-1695/2

RNK:j:...

nwn

DOA:.....Miner, BB0502 - Effective recycling program variance

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

D-Note

SA ✓  
X-ref ✓

1

AN ACT ...; relating to: the budget.✓

*Analysis by the Legislative Reference Bureau*

**ENVIRONMENT**✓

**RECYCLING**✓

Under current law, DNR provides financial assistance to certain municipalities, governmental units, and solid waste management systems (responsible units) that have a solid waste program that DNR determines is an effective recycling program. A solid waste program qualifies as an effective recycling program if it meets certain criteria. One of those criteria is that the program must include a requirement that the occupants of certain residential and commercial buildings in the region separate certain materials, including newspaper and aluminum, glass, and plastic containers (recyclables) from post consumer waste generated in the region. Another criterion is that the solid waste program must include a system for collecting such materials from single-family residences in the region (collection system requirement). Current law also authorizes DNR to grant limited variances to responsible units that DNR has determined have an effective recycling program. Under those variances, a responsible unit is exempt from certain of the requirements for qualifying as an effective recycling program.

This bill authorizes DNR to grant an additional variance to a responsible unit that DNR has determined has an effective recycling program. The bill provides that if DNR promulgates a rule relating to the collection system requirement that specifies that a solid waste management program must provide single-family

served by the  
responsible  
unit



<sup>percent</sup>  
residences with at least monthly curbside collection of recyclables, DNR must, upon request of a responsible unit, grant a variance to the responsible unit if the responsible unit provides at least monthly curbside collection of such materials to at least 80% of single-family residences in the region.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

SECTION 1. <sup>X^</sup>287.11 (2m) (bg) of the statutes is created to read:

287.11 (2m) (bg) 1. If the department promulgates a rule under sub. (2) (e) that specifies that in order to qualify as an effective recycling program, a responsible unit's solid waste management program ~~must~~ <sup>shall</sup> provide single-family residences in the region with at least monthly curbside collection of materials separated ~~pursuant~~ <sup>as provided in</sup> to sub. (2) (b), the department shall, at the request of a responsible unit that has been determined to have an effective recycling program under this section, grant a variance to that responsible unit as provided in subd. 2.

2. A variance granted under subd. 1 shall provide that the monthly curbside collection requirement is satisfied if the responsible unit's solid waste management program provides <sup>at least monthly</sup> curbside collection of ~~such~~ <sup>separated as provided in subd. (2) (b)</sup> materials to at least 80% <sup>percent</sup> of single-family residences in the region.

(END)

D-note

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-1695/2<sup>nd</sup>

RNK:1:....

nwn

Date

In accordance with your instructions, this draft authorizes DNR to grant a variance to "responsible units" with regard to requirements for qualifying as an effective recycling program under s. 287.11, stats. The draft does not limit the variance to the city of Milwaukee. Is this consistent with your intent?✓

Also, the draft does not change the requirement in current law that requires occupants of single-family residences to separate recyclables.✓ Given the variance language created in this draft, do you want the draft to also give a variance if the recycling program requires only 80% of those residences to separate their recyclables?✓

Finally, if an effective recycling program may require curbside collection for only 80% of single-family residences, how will the other 20% of people who may separate their recyclables (whether or not they are required to do so) be able to dispose of them?✓

Robin N. Kite  
Legislative Attorney  
Phone: (608) 266-7291  
E-mail: robin.kite@legis.wisconsin.gov

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-1695/1dn  
RNK:nwn:md

January 22, 2009

In accordance with your instructions, this draft authorizes DNR to grant a variance to "responsible units" with regard to requirements for qualifying as an effective recycling program under s. 287.11, stats. The draft does not limit the variance to the city of Milwaukee. Is this consistent with your intent?

Also, the draft does not change the requirement in current law that requires occupants of single-family residences to separate recyclables. Given the variance language created in this draft, do you want the draft to also give a variance if the recycling program requires only 80% of those residences to separate their recyclables?

Finally, if an effective recycling program may require curbside collection for only 80% of single-family residences, how will the other 20% of people who may separate their recyclables (whether or not they are required to do so) be able to dispose of them?

Robin N. Kite  
Legislative Attorney  
Phone: (608) 266-7291  
E-mail: [robin.kite@legis.wisconsin.gov](mailto:robin.kite@legis.wisconsin.gov)

## Kite, Robin

---

**From:** Miner, Andrew - DOA [Andrew.Miner@Wisconsin.gov]  
**Sent:** Friday, January 23, 2009 10:12 AM  
**To:** Kite, Robin  
**Subject:** answers to questions in note, draft 1695

Hi Robin,

Here are answers to your questions in the drafter's note for 1695, which will require a change to the draft re: #2:

1. Yes, we want the variance to be statewide.
2. Yes, we want the draft to give a variance if the recycling program requires only 80% of those residences to separate their recyclables.
3. This isn't something we can really establish in statute so we won't change the draft for it.

Please let me know if you have any questions. Thanks - Andrew

*Andrew Miner*  
*Agriculture, Environment and Justice*  
*Wisconsin State Budget Office*  
*(608) 266-1103*

## Kite, Robin

---

**From:** Miner, Andrew - DOA [Andrew.Miner@Wisconsin.gov]  
**Sent:** Friday, January 23, 2009 1:45 PM  
**To:** Kite, Robin  
**Subject:** RE: LRB-1695

Robin,

I just spoke with DNR about this and we believe you are correct. If you can draft it in that way, I'll review it with DNR asap to hopefully finalize it. Thanks,  
Andrew

---

**From:** Kite, Robin [mailto:Robin.Kite@legis.wisconsin.gov]  
**Sent:** Friday, January 23, 2009 1:31 PM  
**To:** Miner, Andrew - DOA  
**Subject:** LRB-1695

Andrew:

As I think more about this draft, I think that the variances in the draft (both with regard to waste separation and curbside collection) should apply to single-family residences and buildings that contain "not more than 4 dwelling units". This would seem to capture those residences that the city of Milwaukee is concerned with. Let me know what you think.

Robin

---

Robin Kite, Senior Legislative Attorney  
Wisconsin Legislative Reference Bureau  
1 East Main Street, Suite 200  
Madison, WI 53703  
(608) 266-7291

01/23/2009



State of Wisconsin  
2009 - 2010 LEGISLATURE

RM run  
2  
LRB-1695/4  
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DOA:.....Miner, BB0502 - Effective recycling program variance  
FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

1 AN ACT <sup>don't gen</sup>...; relating to: the budget.

*Analysis by the Legislative Reference Bureau*

**ENVIRONMENT**

**RECYCLING**

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This bill authorizes DNR to grant <sup>also</sup> an additional variance to a responsible unit that DNR has determined has an effective recycling program. The bill provides that if DNR promulgates a rule relating to the collection system requirement that

(materials separation requirement)  
insert analysis

buildings  
and buildings containing not more than 4 dwelling units

specifies that a solid waste management program must provide single-family residences with at least monthly curbside collection of recyclables, DNR must, upon request of a responsible unit, grant a variance to the responsible unit if the responsible unit provides at least monthly curbside collection of such materials to at least 80 percent of single-family residences in the region. ✓ these residences and buildings

For further information see the **state and local** fiscal estimate, which will be printed as an appendix to this bill.

***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

1 SECTION 1. 287.11 (2m) (bg) of the statutes is created to read:

2 287.11 (2m) (bg) 1. If the department promulgates a rule under sub. (2) (e) that  
3 specifies that in order to qualify as an effective recycling program, a responsible  
4 unit's solid waste management program shall provide single-family residences in  
5 the region with at least monthly curbside collection of materials separated as  
6 provided in sub. (2) (b), the department shall, at the request of a responsible unit that  
7 has been determined to have an effective recycling program under this section, grant  
8 a variance to that responsible unit as provided in subd. 2.

9 2. A variance granted under subd. 1. shall provide that the monthly curbside  
10 collection requirement is satisfied if the responsible unit's solid waste management  
11 program provides at least monthly curbside collection of materials separated as  
12 provided in sub. (2) (b) to at least 80 percent of single-family residences in the region. ✓

(END)

Ins  
13 2-12

4  
and buildings  
containing not more than  
dwelling units

use 2x

**2009-2010 DRAFTING INSERT**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-1695/2ins  
RNK:.....

**INSERT ANALYSIS**

four

The bill provides that DNR must, upon request, grant a variance to the responsible unit with regard to the materials separation requirement as it applies to single-family residences and buildings containing not more than 4 dwelling units, if at least 80% of those residences and buildings comply with the materials separation requirement.

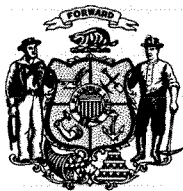
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percent

**INSERT 2-12**

- 1           **SECTION 1.** 287.11 (2m) (br) of the statutes is created to read:
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- 3           has been determined to have an effective recycling program under this section, grant
- 4           a variance that provides that the requirement under sub. (2) (b) as it applies to
- 5           occupants of single-family residences and buildings containing not more than 4
- 6           dwelling units is satisfied if at least 80% of those residences and buildings in the
- 7           region separate the materials identified in s. 287.07 (3) and (4) from post-consumer
- 8           waste generated in the region.





State of Wisconsin  
2009 - 2010 LEGISLATURE

LRB-1695/2

RNK:nwn:ph

DOA:.....Miner, BB0502 - Effective recycling program variance

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This bill authorizes DNR to grant additional variances to a responsible unit that DNR has determined has an effective recycling program. The bill provides that DNR must, upon request, grant a variance to the responsible unit with regard to the

materials separation requirement as it applies to single-family residences and buildings containing not more than four dwelling units, if at least 80 percent of those residences and buildings comply with the materials separation requirement. The bill also provides that if DNR promulgates a rule relating to the collection system requirement that specifies that a solid waste management program must provide single-family residences and buildings containing not more than four dwelling units with at least monthly curbside collection of recyclables, DNR must, upon request of a responsible unit, grant a variance to the responsible unit if the responsible unit provides at least monthly curbside collection of such materials to at least 80 percent of these residences and buildings in the region.

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4 unit's solid waste management program shall provide single-family residences and  
5 buildings containing not more than 4 dwelling units in the region with at least  
6 monthly curbside collection of materials separated as provided in sub. (2) (b), the  
7 department shall, at the request of a responsible unit that has been determined to  
8 have an effective recycling program under this section, grant a variance to that  
9 responsible unit as provided in subd. 2.

10          2. A variance granted under subd. 1. shall provide that the monthly curbside  
11 collection requirement is satisfied if the responsible unit's solid waste management  
12 program provides at least monthly curbside collection of materials separated as  
13 provided in sub. (2) (b) to at least 80 percent of single-family residences and  
14 buildings containing not more than 4 dwelling units in the region.

15          **SECTION 2.** 287.11 (2m) (br) of the statutes is created to read:

287.11 (2m) (br) The department shall, at the request of a responsible unit that has been determined to have an effective recycling program under this section, grant a variance that provides that the requirement under sub. (2) (b) as it applies to occupants of single-family residences and buildings containing not more than 4 dwelling units is satisfied if at least 80 percent of those residences and buildings in the region separate the materials identified in s. 287.07 (3) and (4) from postconsumer waste generated in the region.

**(END)**